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IN THE

SUPREME COURT OF THE UNITED STATES

October Term 1969

No. 598

THE FOUNDING CHURCH OF SCIENTOLOGY OF WASHINGTON, D.C., *et al*,
Petitioners

v.

UNITED STATES OF AMERICA,
Respondent

REPLY BRIEF OF PETITIONERS

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INTRODUCTORY PARAGRAPH

Pursuant to Rule 24(4) of this Court, the Founding Church of Scientology of Washington, D. C., and individual adherents of the religion of Scientology, the petitioners, through their counsel, submit this Reply Brief to the Brief for the United States in Opposition.

STATEMENT

Petitioners rely on the Statement in their Petition for a Writ of Certiorari, pages 4 through 8, and have no objection

as to the accuracy of the Statement in the Brief for the United States in Opposition, pages 2 through 8.

ARGUMENT

The Argument in the Brief for the United States, pages 8 and 9, has failed to delineate the scope and effect of the decisions by the court below—both the original and the clarifying opinion. The court below has found that the Government had never contested that the Founding Church of Scientology is a *bona fide* religion.[1] However, the court below would indicate in its clarifying opinion that this could be challenged by the Government in "the event of any new trial".[2]

Now, the Government in its Brief would rely upon not only its ability to challenge the *bona fides* of this religion, but a further ability to determine what literature of this Church is "wholly non-religious" in nature.[3] Contrary to

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[1]Petition for Certiorari, Appendix, pp. A-13, A-25, A-26, A-34.

[2]*Id.* at p. A-34.

[3]The Government's partial quotations of phrases or sentences from the literature of the Church points up the very danger of permitting such literature to be examined judicially for its truth or falsity. To illustrate briefly with two examples:

(1) At page 5 of its Brief, the Government refers to the statement in the decision of the court below (Pet. App. A-9) that some adherents of Scientology were disturbed when Scientologists organized Churches, but rather than quote from the publication referred to in the court below (Pet. App. A-9, fn. 26) for the reasoning, the Government quotes from another publication not even referred to by the court below. L. Ron Hubbard believed, as with other religions, that Scientology "is basically a philosophic teaching designed to better the civilization into which it is taught". [L. Ron Hubbard's *PAB's Book III* (1956), 17, cited at Pet. App. A-9, fns. 21, 26]. The full context of this discussion by Hubbard may be found at pp. 17-19:

> "Our only concern here is with the fact that religion is basically a philosophic teaching designed to better the civilization into which it is taught. Backed fully by the precedent of all the ages concerning teachings, a Scientologist has a better

the position taken by the Government, this Court's decision in *United States v. Ballard*, 322 U.S. 78, forecloses judicial

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right to call himself a priest, a minister, a missionary, a doctor of divinity, a faith healer or a preacher than any other man who bears the insignia of religion of the western world. And remember that it is precedent which masters the opinion of multitudes and nations.

"Why should Scientology ally itself with religion or use the word religion in connection with its philosophy?

"There are many, many reasons. Amongst them is that a society accords to men of the church an access not given to others. Prisons, hospitals, and institutions, and those who manage them, cannot do otherwise than welcome men of the church. We are talking now about more than simple expediency or protection under law. We are talking about urgency indeed. For to my hand is a document written to me by one of our auditors concerning a woman who had remained senseless for three months following an accident. Her husband was desperate and desired a Scientologist to do what he could to return this woman to consciousness. The Scientologist did so and made excellent progress simply by putting the woman into communication by hand pressures. Although she could not speak, she could yet express herself and respond and even to mockups. The terrible condition of her body bettered and when she was returning to the world of speech and action, the medical doctor in charge of the hospital who heretofore had granted grudgingly, on the husband's persuasion, interviews between the Scientologist and the patient, seeing the improvement, turned on the Scientologist and forbade him to touch the patient or see the patient or have anything more to do with the patient even though he could find nothing in the case but improvement had occurred.

"The Scientologist was turned out of the hospital and a few weeks afterwards the woman, relapsing into the apathy of unconsciousness, died. We will not charge this doctor with murder. We will only charge him with ignorance and barbarism. For we live today in what is at best, so far as social usages are concerned, a barbaric society. Those who profess to heal more often than not exist to collect. Those in charge of the insane are little better themselves than their patients. We live in a society where dreadful and terrible weapons and controls are commonplace, yet which is without many of the benefits of compassion, mercy and charity.

"If we in Scientology had to hand only the weapon of better knowledge, if we had no technologies, if we could not—other than give him wisdom and hope—make any man well, we could

determination of the truth or falsity of religious beliefs or doctrines. As stated by this Court in *Fowler v. Rhode*

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still take what we know about life and with that as our message affect a wide and compelling influence upon the civilization of our times. For any message carried forward to a people which gives them hope cannot but reflect to the betterment of their culture.

"But we have more than a message. We have more than a handful of axioms or explanations of behavior. We have in this year of 1954 processes which, when worked upon groups, produce en masse a state of beingness which 2500 years ago was being groped for by the select few. We have more command over the phenomena of life than any have ever had before.

"Were we to accept our rightful role, were we to accomplish our teachings and deliver to our culture this bettered state of beingness, we would have changed at least the entire pattern of the western world.

"If we can accomplish psycho-therapy, this does not mean that we are psycho-therapists. If we can accomplish better communications in business, this does not mean we are business specialists. It may be that we could conceive ourselves as emissaries to a barbarism grown lawless in the possession of weapons too powerful for the understanding of their wielders.

"In another time, in another place, those men (the Budhas) responsible for what western culture calls their religion called themselves priests. I do not see, then, any inconsistency of any kind in the issuance to those well-schooled and well-skilled in Scientology the degree of Doctor of Divinity as a passport into those areas where they are needed. Only a barbaric minister is a 'Man of God'. In all enlightened religions such men are called 'Men of Wisdom'."

(2) Similarly, in footnote 3 on page 5 of its Brief in Opposition, the Government quotes only part of a Scientologist's statement. The full statement, from L. Ron Hubbard's *PAB's BOOK V* (Govt. Exh. 20, p. 79), is as follows:

". . . The great majority attend church and are obedient to the priests, but nevertheless mental illness and political corruption are very widespread, and certainly in this particular area the influence of the church tends to subjugate rather than free the individual. I have no doubt that in the Axioms of Scientology Ron has set out the very basic agreements of life itself. The sooner people come to know about and understand these things the saner and happier society will be. What matters is that we should get it across, and in many places we have to do this in spite of legislation which would prevent us if it could.

[continued]

Island, 345 U.S. 67, at 70, ". . . it is no business of courts to say that what is a religious practice or activity for one group is not religion under the protection of the First Amendment. . . . To call the words one minister speaks to his congregation a sermon, immune from regulation, and the words of another minister an address subject to regulation, is merely an indirect way of preferring one religion over another." Be it spoken sermon or written tract, the Government cannot judge its religiosity.

The Government has already demonstrated some "preference" in its dismissal as "inapposite" the references by Petitioners to other religions. Scientology is a religion, and so states in its literature. Christian Science teachings have as much "scientific" bases as have the teachings of Scientology. Yet, the Government is now prepared to distinguish what is and is not of a religious nature in the literature of Scientology. (Brief in Opposition, p. 9).

Of possibly greater significance is the failure by the Government to face the issue of the continued interference with religious practices which would be countenanced by the retrial which the Government anticipates. A retrial, and the continued embargo on the seized religious aids, can only result in imposing restrictions on the free exercise or practice of religion.

"In the U.S.A. Ron has tried the religious approach with good success. If we can 'get it across' on this basis, is there really anything so shocking about it? *After all, we deal in the thing most people call sacred–life itself, and if we can deal honorably and well are we not entitled to be regarded as people who can minister to the needs of others?* In fact, we do it all the time." (Emphasis supplied.)

CONCLUSION

For the reasons stated in the Petition for Certiorari and in this Reply Brief, the Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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